

Notice of Allowability

Application No.

10/632,529

Examiner

Abdou Karim Seye

Applicant(s)

CHEW ET AL.

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/28/2007 and 12/06/2007.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with James Ryan T Grace (Reg. No. 52956) on 06 December 2007.

3. The application has been amended as follows:

*a. Amendment to the Claims :The claims of this application have been amended as presented in the fax received on **06 December 2007** and hereto attached.*

Allowable Subject Matter

4. Claims **1-24** are allowed.

5. The following is an examiner's statement of reasons for allowance:

The arts of record used as the basis for the previous rejection, Chheda et al (US 20030231586) and Brosnan et al. (US 6682423) do not expressly teach or render obvious the invention as recited in independent **claims 1, 10 and 17**.

a. As to claim 1, the art of record does not expressly teach initiating a gaming session between a host mobile device and a receiving mobile device for communicating the data, wherein initiating a gaming session includes sending a notification from the host mobile device to indicate available protocols of the host mobile device, wherein initiating a gaming session includes receiving an acknowledgement of transmission from the receiving mobile device that includes available protocols of the receiving mobile device; determining a first transport configured to communicate the data, wherein the first transport has a first transport protocol, wherein the first transport is determined based on the notification and the acknowledgement of transmission; determining a second transport configured to communicate the data, wherein the second transport has a second transport protocol, wherein the second transport is determined based on the notification and the acknowledgement of transmission; determining whether the first transport protocol corresponds to an optimal transport protocol for transmitting the data; switching the first transport protocol to the second transport protocol when a determination is made that the second transport protocol is the optimal transport protocol when taken in the context of the claim, as a whole. More over, the art of record does not provide a basis of evidence for asserting a motivation driven from the art or from one knowledgeable in the art, that one of ordinary skill in the art at the time the invention was made would have modified a computer-implemented method for transmitting data related to a game application between mobile devices to combine the disclosed limitations as recited in the context of **Claim 1**.

b. As to **Claim 10**, being directed to the computer system having substantially the same limitations as **Claim 1**, this claim is allowable for the same reasoning as recited **Claim 1**.

c. As to **Claim 17**, being directed to the computer product having substantially the same limitations as **Claim 1**, this claim is allowable for the same reasoning as recited **Claim 1**.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS
December 06, 2007


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER